

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: _____**

Mary Miller,

Plaintiff,

v.

Rubin & Rothman LLC,

Defendant.

COMPLAINT

JURY TRIAL DEMANDED

JURISDICTION

1. Jurisdiction of this Court arises under 15 U.S.C. § 1681 et seq. and 28 U.S.C §§ 1331 and 1367.

PARTIES

2. Plaintiff Mary Miller (hereinafter "Plaintiff") is a natural person who resides in the City of Circle Pines, County of Anoka, State of Minnesota, and is a "consumer" as defined by 15 U.S.C. § 1681a(c).
3. Defendant Rubin & Rothman, LLC ("Defendant") is a foreign corporation incorporated under the laws of the state of New York, with its headquarters located at 1787 Veterans Highway, Islandia, NY 11749. Defendant is a "furnisher" as described at 15 U.S.C. §1681s-2 *et seq*; and a "person" as defined at 15 U.S.C. §1681a(b).

FACTUAL ALLEGATIONS

4. Plaintiff lives in Minnesota and has never lived in New York.
5. Plaintiff has never had a Capital One credit card #XXXX XXXX XXXX 4362 (hereinafter referred to as "Cap One Account").
6. Sometime prior to June 12, 2008 the Cap One Account went into default and was transferred to Defendant for collection.
7. Upon information and belief the Cap One Account belonged to a woman by the name of Mary Miller who lived at 113 Christopher Street in New York, NY.
8. Defendant filed a collection action on behalf of Capital One on or about May 8, 2008 seeking to collect on the Cap One Account from the Mary Miller living in New York.
9. The collection action was given CV-030917-08/NY as the NY civil court file number.
10. Defendant obtained a judgment for Capital One in the amount of \$1,199.76 against the New York Mary Miller on October 2, 2008.
11. Upon information and belief Defendant received information about the judgment debtor from Capital One, including but not limited to her social security number, date of birth, and address.
12. Despite possessing this identifying information, Defendant illegally obtained and used Plaintiff's Experian credit report on June 12th, October 10th and October 18th, 2008 in violation of 15 U.S.C. §1681b.

13. Defendant obtained and used Plaintiff's Experian Information Solutions credit report for illegal and improper purposes.
14. As a result of Defendant's violations, Plaintiff is entitled to actual, statutory and punitive damages in addition to attorney's fees and costs.

TRIAL BY JURY

15. Plaintiff is entitled to and hereby demands a trial by jury. U.S. Const. Amend. 7. Fed. R. Civ. P. 38.

CAUSES OF ACTION

**COUNT I.
VIOLATION OF THE FAIR CREDIT REPORTING ACT –
15 U.S.C. § 1681, *et seq.***

16. Plaintiff hereby incorporates by reference all preceding paragraphs as though fully stated herein.
17. Defendant lacked a permissible purpose in accessing Plaintiff's credit history stored on Experian's database in violation of 15 U.S.C. § 1681b(f).
18. As a result of Defendant's violation of 15 U.S.C. § 1681b(f), Plaintiff has suffered out-of-pocket expenses, detriment to her credit rating, and emotional distress in an amount to be determined at trial.
19. Defendant's conduct, actions and inactions were willful, rendering it liable for statutory damages not less than \$1,000 and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. § 1681n.
20. Plaintiff is entitled to recover costs and attorney's fees from Defendant in an amount to be allowed by the Court pursuant to 15 U.S.C. § 1681n and §

1681o.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

- statutory and punitive damages for violating the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*;
- costs and reasonable attorney's fees pre and post judgment pursuant 15 U.S.C. §1681 *et seq.*;
- actual damages for emotional distress and out of pocket losses as a result of the FCRA violations in an amount to be determined at trial; and
- for such other and further relief as may be just and proper.

Dated this 28th day of May, 2010.

By: s/Trista M. Roy

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VERIFICATION OF COMPLAINT AND CERTIFICATION BY PLAINTIFF

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, Mary Miller, having first been duly sworn and upon oath, depose and say as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

s/Mary Miller
Mary Miller

Subscribed and sworn to before me
this 19th day of May, 2010.

s/Trista M. Roy
Notary Public